

**Remarks/Arguments:**

These remarks are responsive to the Office Action of May 27, 2009. Applicants acknowledge that the Section 112 rejection of claim 33 as indefinite is withdrawn and that the Section 102(b) rejection of claims 1, 3, 8, 10, 33, 38, and 39 over Halbreich is withdrawn.

Claims 2, 4-7, 11-16, 29-33, and 38-40 are cancelled. Claim 1, as amended, is directed to a composition comprising a metal surface chemically coordinated to a surface modifier and a modified protein, wherein the modified protein comprises a fusion protein or a CAR protein, or a fragment of a CAR protein, and wherein the modified protein is covalently bound to the surface modifier directly or via a linker. Claim 3 is amended to clarify that the modified protein is covalently bound to the surface modifier. Support for these amendments is found in the specification at paragraphs [0016], [0041], [0066], and [0073], and original claims 2 and 13. Claims 34 and 35 are amended to change claim dependencies and recite that the modified protein to which these claims are directed is a fusion protein. No new matter is added by these amendments. Paragraph numbers cited herein refer to the published Application No. US 2007/0092489.

Claims 1, 3, 8-10, 33, 39, and 40 stand rejected under 35 USC Sections 102(e) and 102(a) as anticipated by Levy, *et al*, US 2003/044408. Claims 33, 39 and 40 have been cancelled and the rejection is therefore moot with respect to these claims.

Applicants traverse the rejections of claims 1, 3 and 8-10, because they are obviated by the amendment of claim 1. Claim 1 is now directed to a modified protein comprising a fusion protein or a CAR protein, or a fragment of a CAR protein. Levy, *et al*, US 2003/044408 does not disclose a modified protein comprising a fusion protein or a CAR protein, or a fragment of a CAR protein, which is covalently bound to a surface modifier directly or via a linker. In fact Levy, *et al*, US 2003/044408 fails to disclose a fusion protein or a CAR protein or fragment thereof. For this reason, Levy, *et al*, US 2003/044408 cannot anticipate Applicants' claims. Therefore, Applicants respectfully request that the Section 102(e) and 102(a) rejections of claims 1, 3, and 8-10 be withdrawn.

Claims 1, 8-10, 33, and 39 stand rejected under Section 102(e) as anticipated by Kutryk, US 7,037,332. The stated reason for the rejection of claims 1 and 8 is that Kutryk

discloses "a composition comprising a medical device coated with one or more antibodies and one or more layers of a matrix, and the matrix may be noncovalently or covalently attached to the medical device, and antibodies may be covalently attached to the matrix using hetero- or homobifunctional cross-linking reagents." (Office Action, page 8). Applicants traverse the rejection for the following reasons.

Claims 33 and 39 have been cancelled; therefore, the rejection is moot with respect to these claims. Claim 1, as amended, is directed to a metal surface chemically coordinated with a surface modifier. Kutryk does not disclose a composition comprising a surface modifier that is chemically coordinated to a metal surface. Instead, Kutryk discloses coating a medical device with a matrix. Kutryk states that "[i]n order to coat a medical device such as a stent, the stent is dipped or sprayed with a liquid solution of the matrix of moderate viscosity." (Col. 10, lines 24-26). Kutryk's "coating" is very different from Applicants' composition which comprises a surface modifier that is chemically coordinated to the metal surface of a medical device. Furthermore, Kutryk does not disclose chemical coordination or a chemically-coordinated surface modifier. Therefore, Kutryk does not disclose all elements of claim 1. Claims 8-10 depend from claim 1; therefore, Kutryk does not disclose all elements of these claims. Accordingly, Applicants respectfully request that the 102(e) rejection of claims 1 and 8-10 be withdrawn.

Claims 1, 3, 33, and 34 stand rejected under 35 USC 103(a) as unpatentable over Kutryk (US 7,037,332) in view of Xu (US 7,001,745). Claim 33 has been cancelled. As discussed above, Kutryk does not teach or suggest all elements of claim 1 and claims 3 and 34 depend from claim 1. Xu cannot compensate for the omissions of Kutryk, as Xu does not teach or suggest a composition comprising a surface modifier that is chemically-coordinated to a metal surface. One of ordinary skill in the art could not predict a composition comprising a surface modifier chemically-coordinated to a metal surface and a modified protein bound to the surface modifier based on the combined teachings of Kutryk and Xu, and would not be motivated to combine these references to produce such a composition. For these reasons, claims 1, 3, and 34 are not rendered obvious by the combination of Kutryk and Xu, and Applicants respectfully request that the 103(a) rejection of these claims be withdrawn.

Claims 1, 33, and 35-37 stand rejected under 35 USC 103(a) as unpatentable over Kutryk (US 7,037,332) in view of Li (US 6,524,572). Claim 33 has been cancelled. As

discussed above, Kutryk fails to disclose or suggest a composition comprising a surface modifier that is chemically-coordinated to a metal surface. Li cannot compensate for this omission. As stated in the Office Action, Li teaches a fusion protein comprising at least a fragment of a CAR protein and a receptor-targeting ligand. (Office Action, page 18). Li fails to disclose a composition comprising a surface modifier that is chemically-coordinated to a metal surface. Therefore, the combination of Kutryk and Li fails to teach or suggest all elements of claims 1 and 35-37 and Applicants respectfully request that the 103(a) rejection of these claims be withdrawn.

### Conclusion

It is respectfully submitted that the claims, as amended, are in condition for immediate allowance and a notice to this effect is solicited. The Examiner is invited to telephone Applicants' attorney if it is believed that a telephonic interview would expedite prosecution of the application.

Respectfully submitted,



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